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LEGALITY, LEGITIMACY AND LEGITIMATION OF POLITICAL POWER: THEORETICAL ANALYSIS

Sitora Kadirova

Tashkent State University of Law, Tashkent, Uzbekistan Email — siitoriiik@gmail.com

Abstract — In this article author examines the nature of the legitimacy of power, correlates the concepts of "legitimacy" and "legality". The author also analyzes the difference between legitimation and legitimacy and reports the factors and causes of the crisis of legitimacy of political power. The term "delegitimization" is considered, the reasons and conditions for its occurrence are specified.

Keywords — legality, legitimacy, legitimation, legitimization, legalization, delegitimation, political power.

I. Introduction

The modern world is characterized by a variety of forms of organization of socio-political life, which determine the special relationship between the governed and the managers, as well as the internal distribution of power between the managers: the presence or absence of separation of powers, periodic use of election procedures, universal suffrage, representative mandate, pluralism of opinions and freedom of expression. The concept of legitimacy is inextricably linked to the rules and procedures necessary for the effective exercise of power in a democratic manner.

II. Theoretical Analysis

A. Legality of political power

Legality of power is a legalized activity of power based on generally accepted norms and documents, a concept that reflects formal legality.

The objects of legality are government, political organizations and political institutions, political subjects. Legality is established by the authorities and guaranteed by them. The main property of legality is rationality. For citizens, legality means obeying the laws and properly executing them.

Legislation is a form of legalizing power. Legality reflects the legal legitimacy of the present political power (the head of state, government, Parliament, elected in accordance with the law).

The legality of power assumes that:

- the power is established exclusively by the law;
- the government has a legitimate origin;
- the government obeys the law.

Legalization is a procedure for confirming that a document issued by the authorities of a state or drawn up with the participation of these authorities complies with the legislation of that state.

Legalization of state power, in turn, is a legal declaration of the legality of its origin (establishment), organization and activities of the state in accordance with legal acts.

State power is, as a rule, a legal power (legalized). It is based on law. Its bearers, subjects and objects, as members of a certain state, have certain legal rights and obligations. Their activities and relations are regulated by the laws adopted in this state, as well as by the norms of international law.

B. Legitimacy and legitimation of political power

Legitimacy is a term that is widely used in modern political science and practice. Sometimes it is interpreted very broadly, identifying with formal legality. However, this is not always the case. From a psychological point of view, the legitimacy of power does mean legality but it is subjective. For various reasons, people can give a positive assessment of political institutions that concentrate power, recognize their right to make managerial decisions and be willing to voluntarily submit to them. This relationship between the government and people is called legitimacy. Legitimate power is evaluated by people who recognize it as lawful and fair. Legitimacy also means that the government has authority, and that this authority corresponds to the basic value orientations of the majority of citizens. In other words, legitimacy of power is a political and legal concept that characterizes the consent of the people with the present government, the voluntary recognition of the power to make responsible and binding decisions.

The term "legitimacy" in its current meaning was coined by the German sociologist Max Weber [1]. Although he did not specifically deal with the problems of social or political psychology, his methodology for identifying types of legitimate domination reveals a pronounced psychological approach. The characteristic of the types of legitimacy of power in M. Weber is based on his concept of the types of social action. In the most general terms, "social action" is the characteristics and methods of behavior of people in various spheres of life, the result of which are all social relations and institutions. M. Weber identified several types of social action, depending on

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what motivates this action [id.].

The scientist considered the highest type of social action to be a *purposeful action*. In other words, an action that is motivated solely by conscious, rational interests. It has a pre-set goal and the way to achieve it is developed using rational tools — mathematical, technical, natural and socio-scientific knowledge, as well as legal norms. *Value-rational social action* is based on a conscious belief in certain ethical, aesthetic, or religious ideals. The third type of social action was associated exclusively with emotional-sensory motivation and called it "*affective*". Finally, the sociologist characterized the fourth type of social action as "*traditional*", where the main motive is a habit, an unconscious adherence to once and for all established patterns of behavior.

Specifically, the lower the level of legitimacy in a state, the more often the authorities resort to force. In the case of a legitimate action – this is an action that is not disputed by any of the participants in the process who have the right to challenge this action. If the subject of the action must make special efforts to protect their right to act as they did, the action is no longer legitimate.

In political science, legitimacy is understood as the positive attitude of the population of the state, public opinion to the existing institutions of power and recognition of their legitimacy. The process of legitimation (legitimization) is a process of recognizing the actions of a political leader and the actions of the authorities [2].

In situations where the government loses the trust of the people, there is a delegitimization of power. In the process of a crisis of legitimacy, the interests of the political elite and the people come into conflict, conflicts occur between different branches of government, the threat of nationalism increases, etc.

The normative structure of political legitimacy of David Beetham includes the following provisions: power fully complies with the established and accepted rules in society;

- these rules are justified by the faith of the managers and the governed;
- there is evidence of consent to the existing power relations.

C. The relationship between legality, legitimacy and legitimation of political power

Legality and legitimacy of power are almost identical concepts. Legitimacy is an evaluative, ethical characteristic of power: fair or unfair, good or bad, honest or dishonest, etc. Legality is an ethically neutral, legal characteristic of power.

Legitimacy reflects the acceptance of power by the public consciousness, trust in it, and justification of actions [3]. The population approves or disapproves of the government based on moral criteria, ideas of justice, goodness, conscience, and decency. Legitimacy must ensure consent without coercion, obedience, and, in cases where it is not achieved, justify the use of force and coercion. Politics and legitimate government are effective and authoritative.

In order to gain and maintain the trust and legitimacy of the people, the government uses the arguments of its own actions – legitimation, operating on the highest moral values (truth, justice), emotions, moods and feelings, history, the fictional and real will of the people, the requirements of production, scientific and technological progress, historical tasks of the country, etc.

At a certain stage of development, the legal power may become illegitimate to the population. The threshold of legitimacy of the government shows that if, according to the results of social surveys, more than 30% of the population expresses their confidence in the current government, it is legitimate. If less than 30% of the population expresses confidence, the government is illegitimate.

Submission to authority is a special legal act, meaning literally "I do not break the law" [4]. Whether the person obeys, recognizing or not recognizing the current authority, refers to the evaluative, ethical characteristics of power. Not every submission to authority is an acknowledgment of that authority. The population is subject not only to the legitimate government.

In cases where the government becomes illegitimate, the probability of opposition from the population increases. In democratic practice, one of the forms of expressing distrust and resistance to the authorities is common, as a means of non-violent struggle – civil disobedience protests [5].

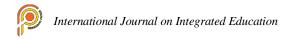
III. CONCLUSION

The problem of legitimacy is an urgent problem of any political system, any political regime. Power needs legitimacy because of its essential social nature, which dictates its desire for stability, reproducibility, and long-term existence. Power is considered legitimate when it is in accordance with the value preferences of citizens, in other words, when neither the managers nor the governed doubt the legality of its origin, actions taken and provide it with some support. Thus, there is a direct interdependence of two phenomena: in order for the government to be truly legitimate, it is necessary to comply with a number of requirements, the implementation of which leads to the formation and establishment of democracy in the country.

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123



e-ISSN: 2620 3502 p-ISSN: 2615 3785

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